

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>PC-21013879</b>	<b>FOR FURTHER ACTION</b> See Form PCT/IPEA/416																									
International application No. <b>PCT/SE2004/000879</b>	International filing date (day/month/year) <b>07.06.2004</b>	Priority date (day/month/year) <b>03.07.2003</b>																								
International Patent Classification (IPC) or national classification and IPC <b>A61F2/04, A61L27/58</b>																										
Applicant <b>Astra Tech AB et al</b>																										
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>9</u> sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center; padding: 2px;"><input checked="" type="checkbox"/></td> <td style="width: 15%; text-align: center; padding: 2px;">Box No. I</td> <td style="width: 70%; text-align: left; padding: 2px;">Basis of the report</td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 2px;">Box No. II</td> <td style="text-align: left; padding: 2px;">Priority</td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input checked="" type="checkbox"/></td> <td style="text-align: center; padding: 2px;">Box No. III</td> <td style="text-align: left; padding: 2px;">Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 2px;">Box No. IV</td> <td style="text-align: left; padding: 2px;">Lack of unity of invention</td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input checked="" type="checkbox"/></td> <td style="text-align: center; padding: 2px;">Box No. V</td> <td style="text-align: left; padding: 2px;">Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 2px;">Box No. VI</td> <td style="text-align: left; padding: 2px;">Certain documents cited</td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 2px;">Box No. VII</td> <td style="text-align: left; padding: 2px;">Certain defects in the international application</td> </tr> <tr> <td style="text-align: center; padding: 2px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 2px;">Box No. VIII</td> <td style="text-align: left; padding: 2px;">Certain observations on the international application</td> </tr> </table>			<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand <b>02.05.2005</b>	Date of completion of this report <b>14.10.2005</b>
Name and mailing address of the IPEA/SE Patent- och registreringsverket Box 5055 S-102 42 STOCKHOLM Facsimile No. +46 8 667 72 88	Authorized officer <b>Leif Brander/EK</b> Telephone No. +46 8 782 25 00

## Box No. I Basis of the report

## 1. With regard to the language, this report is based on:

the international application in the language in which it was filed

a translation of the international application into \_\_\_\_\_ which is the language of a translation furnished for the purposes of:

international search (Rules 12.3(a) and 23.1(b))

publication of the international application (Rule 12.4(a))

international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished

the description:

pages 1 - 27 as originally filed/furnished

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

the claims:

pages \_\_\_\_\_ as originally filed/furnished

pages\* \_\_\_\_\_ as amended (together with any statement) under Article 19

pages\* 28 - 36 received by this Authority on 02.05.2005

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

the drawings:

pages 1/1 as originally filed/furnished

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3.  The amendments have resulted in the cancellation of:

the description, pages \_\_\_\_\_

the claims, Nos. \_\_\_\_\_

the drawings, sheets/figs \_\_\_\_\_

the sequence listing (*specify*): \_\_\_\_\_

any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages \_\_\_\_\_

the claims, Nos. \_\_\_\_\_

the drawings, sheets/figs \_\_\_\_\_

the sequence listing (*specify*): \_\_\_\_\_

any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/SE2004/000879

## Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application

claims Nos. 48-56

because:

the said international application, or the said claims Nos. 48-56  
relate to the following subject matter which does not require an international preliminary examination (specify):

See PCT Rule 67.1.(iv) : Methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods.

the description, claims or drawings (indicate particular elements below) or said claims Nos. \_\_\_\_\_  
are so unclear that no meaningful opinion could be formed (specify):

the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported  
by the description that no meaningful opinion could be formed (specify):

no international search report has been established for said claims Nos. \_\_\_\_\_

a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b) and 13ter.2.

a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Preliminary Examining Authority in a form and manner acceptable to it.

the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in the Annex C-bis of the Administrative Instructions.

See Supplemental Box for further details.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/SE2004/00879

**Box No. V** **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

## 1. Statement

Novelty (N)	Claims	1-47	YES
	Claims		NO
Inventive step (IS)	Claims	1-47	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-47	YES
	Claims		NO

## 2. Citations and explanations (Rule 70.7)

Amended claims 1-56 were filed on 02.05.2005.

## Documents cited in the International Search Report:

D1: EP 0945145 A1  
 D2: US 6548569 B1  
 D3: US 5358475 A1  
 D4: US 5735863 A1

The cited documents represent the general state of the art. The invention defined in claims 1-47 is not disclosed by any of the documents D1-D4.

The cited prior art does not give any indication that would lead a person skilled in the art to the claimed device, where the guiding means presents an in vivo degradation time being less than the time required for establishing contact between the ends of a nerve. Therefore, the claimed invention is not obvious to a person skilled in the art.

Accordingly, the device, the kit and the sheet defined in claims 1-47 are novel and are considered to involve an inventive step. The invention is industrially applicable.